

Archived Information

Proposed Regulatory Language Committee I - Loans

Quick Fix: No

Origin: FFEL Community

Issue: Perkins - Promissory Notes

Regulatory Cite: §674.19(e)(4)

Summary of Change: The proposed language would allow electronically signed promissory notes in the Perkins program to be maintained in the same manner as FFEL electronically signed promissory notes.

(1) Change (context):

§674.19 Fiscal Procedures and Records

* * * * *

(e) ***

(4) Manner of retention of promissory notes and repayment schedules. (i) Except as provided in paragraph (iii), an ~~An~~ institution shall keep the original promissory notes or master promissory note and repayment schedules in a locked, fireproof container until --

(A) The loans are satisfied; or

(B) The original documents are needed in order to enforce the loan obligation.

(ii) The institution shall retain certified true copies of documents released for enforcement of the loan.

(iii) The institution shall retain a promissory note that was signed by the borrower electronically in its original electronic form.

(~~iii~~v) After the loan obligation is satisfied, the institution shall return the original or a true and exact copy of the notes marked "paid in full" to the borrower~~-,~~ or otherwise notify the borrower in writing that the loan is paid in full, and retain a copy for the prescribed period.

(~~iv~~)An institution shall maintain separately its records pertaining to cancellations of Defense, NDSL, and federal Perkins Loans.

(v~~i~~)Only authorized personnel may have access to the loan documents.

(2) Amendatory Language:

Section 674.19(e)(4) is amended to read as follows:

§674.19 Fiscal Procedures and Records.

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(e) ***

(4) Manner of retention of promissory notes and repayment schedules. (i) Except as provided in paragraph (ii), an institution shall keep the original promissory notes or master promissory note and repayment schedules in a locked, fireproof container until --

(C) The loans are satisfied; or

(D) The original documents are needed in order to enforce the loan obligation.

(ii) The institution shall retain certified true copies of documents released for enforcement of the loan.

(iii) The institution shall retain a promissory note that was signed by the borrower electronically in its original electronic form.

(iv) After the loan obligation is satisfied, the institution shall return either the original or true and exact copy of the note marked "paid in full" to the borrower, or otherwise notify the borrower in writing that the loan is paid in full, and retain a copy for the prescribed period.

(v) An institution shall maintain separately its records pertaining to cancellations of Defense, NDSL, and federal Perkins Loans.

(vi) Only authorized personnel may have access to the loan documents.

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**Proposed Regulatory Language
Committee I - Loans**

Quick Fix: Yes

Origin: ED Proposed 12/14/2001

Issue: Perkins - Economic Hardship for Borrowers

Regulatory Cite: 674.34(e)(10)

Summary of Change: Many borrowers repay their Perkins Loans in less than 10 years. The proposed change allows schools to base economic hardship deferment calculations on a borrower's actual repayment schedule, rather than a 10-year repayment schedule.

(1) Change (context):

§674.34 Deferment of repayment - Federal Perkins loans, NDSLs and Defense loans.

* * * *

(e) ***

(10) In determining a borrower's eligibility for an economic hardship deferment under paragraph (e)(5) of this section, the institution shall -

(i) If the Federal postsecondary education loan had been scheduled to be repaid in 10 years or more, use a monthly payment amount (or a proportional share if the payments are due less frequently than monthly) that would have been owed on the Federal postsecondary education loan if the loan had been scheduled to be repaid in 10 years, and

(ii) If the Federal postsecondary education loan had been scheduled to be repaid in less than 10 years, use the actual monthly payment amount.

(2) Amendatory Language:

Section 674.34(e) is amended:

A. By revising paragraph (10).

The revision reads as follows:

§674.34 Deferment of repayment - Federal Perkins loans, NDSLs and Defense loans.

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(e)***

(10) In determining a borrower's eligibility for an economic hardship deferment under paragraph (e)(5) of this section, the institution shall -

(i) If the Federal postsecondary education loan had been scheduled to be repaid in 10 years or more, use a monthly payment amount (or a proportional share if the payments are due less frequently than monthly) that would have been owed on the Federal postsecondary education loan if the loan had been scheduled to be repaid in 10 years, and

(ii) If the Federal postsecondary education loan had been scheduled to be repaid in less than 10 years, use the actual monthly payment amount.

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**Proposed Regulatory Language
Committee I - Loans**

Quick Fix: No

Origin: Fed Up #17

Issue: Perkins - Rehabilitation of Loans

Regulatory Cite: §674.39

Summary of Change: Under current regulations, a borrower may rehabilitate a defaulted Perkins Loan on which a judgment has been obtained. The proposed change would no longer entitle a borrower to rehabilitate a defaulted Perkins Loan for which a judgment has been secured.

(1) Change (context):

§674.39 - Loan rehabilitation.

(a) Each institution must establish a loan rehabilitation program for all borrowers for the purpose of rehabilitating defaulted loans made under this part, except for those loans for which a judgment has been secured. The institution's loan rehabilitation program must provide that --

(1) A defaulted borrower is notified of the option and consequences of rehabilitating a loan; and

(2) A loan is rehabilitated if the borrower makes an on-time, monthly payment, as determined by the institution, each month for twelve consecutive months and the borrower requests rehabilitation; and

~~(3) A borrower who wishes to rehabilitate a loan on which a judgment has been entered must sign a new promissory note after rehabilitating the loan.~~

(2) Amendatory Language:

§674.39 [Amended]

Section 674.39(a) is amended:

A. In the first sentence of the introductory text, by adding "except for those loans for which a judgment has been secured" after "part,".

B. By removing paragraph (a)(3).

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**Proposed Regulatory Language
Committee I - Loans**

Quick Fix: No

Origin: Fed Up #16

Issue: Perkins - Litigation

Regulatory Cite: §674.46(a)(1)

Summary of Change: Two changes have been proposed for this section. The first change would require institutions to conduct a review once every two years if certain collection efforts set forth in §674.45 do not result in the repayment of a loan. Current regulations require institutions to conduct an annual review. The second change would revise the regulations to reflect that the balance on a loan that institutions would use to determine if they must sue a borrower has increased from \$200 to \$500.

(1) Change (context)

§674.46 Litigation procedures.

(a)(1) If the collection efforts described in § 674.45 do not result in the repayment of a loan, the institution shall determine at least ~~annually~~ once every two years whether -

(i) The total amount owing on the borrower's account, including outstanding principal, accrued interest, collection costs and late charges on all of the borrower's Federal Perkins, NDSL and National Defense Student Loans held by that institution, is more than ~~\$200~~ \$500;

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(2) Amendatory Language:

§674.46 [Amended]

Section 674.46 (a) is amended:

A. In paragraph (1), by removing "annually" and adding, in its place, "once every two years".

B. In paragraph (1)(i), by removing "\$200" and adding, in its place, "\$500".

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**Proposed Regulatory Language
Committee I - Loans**

Quick Fix: No

Origin: ED Proposed (Conforming Change)

Issue: Perkins - Write-Offs

Regulatory Cite: §674.9(g)

Summary of Change:

The proposed change would delete §674.9(g) requiring borrowers to reaffirm any Federal Perkins, NDSL, or Defense loan amounts that were previously written off (if the amount of the write-off exceeded \$25). This provision would no longer apply since new language has been added to §674.47(h) relieving borrowers from all repayment obligations when an institution writes off an account.

(1) Change (context):

§674.9 Student Eligibility.

A student at an institution of higher education is eligible to receive a loan under the Federal Perkins Loan program for an award year if the student --

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~~(g) Reaffirms any Federal Perkins, NDSL, or Defense loan amount that previously was written off (if the amount of the write-off exceeded \$25); and~~

(2) Amendatory Language:

Section 674.9 is amended:

A. By removing paragraph (g).

B. By redesignating paragraphs (h),(i), and (j) as (g),
(h), and (i) respectively.

C. By adding the ",and" at the end of redesignated
paragraph (h).

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